IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.563 OF 1993.

Shri Sadhan Malik S/o Bisco
Poda Malik : Appellant.

versus

The Union of India : Respondent.

Mr.G.J.Mohan Rao for the appellant.
Mr.A.N.Samant for Respondent.

CORAM : D.G.DESHPANDE,J.

DATED : 27th January 2005.

ORAL ORDER

1. Heard advocates for the appellant and respondent. Appeal is filed by the original claimant who had filed claim petition before the Railway Claims Tribunal Bombay vide Original Application No.48 of 1992 which was decided on 16th July 1992. It was the case of the appellant that on 8.11.1991 at 23.00 p.m. he was

travelling on second class season ticket in train No.A-61 Bombay Ambernath local. There was bomb blast at Kalyan Railway Station in which he suffered injuries, therefore, he filed claim petition.

2. Central Railway through their reply or written statement denied each and every allegation of the claimant. The tribunal disbelieved the case of the claimant and dismissed his application.

3. After hearing both the advocates and perusing the record, it appears that the claimant has not properly proved the documents and, even though, according to him, the Railway has issued to him certificate for grant of exgratia payment, the same was denied by the Railway. It also appears that there are documents to support the contention of the claimant but no attempts were made to prove those documents in a proper manner. Looking to the injuries suffered and sustained, it is not proper to uphold the judgment of the trial Court, that is caused serious prejudice and injustice to the appellant, and therefore, the impugned order is set aside. The matter is

remanded back to the Railway Claims Tribunal Bombay for decision according to merits. The appellant and respondent i.e. claimant and opponent are entitled to adduce evidence afresh on all those points which they want to put forth before the Court. The parties to appear before the Tribunal on 14.2.2005 and the Tribunal will decide and determine the claim on merits within four months from the date of first appearance. Both the parties agree that they will not take undue and unnecessary adjournments.

[D.G.DESHPANDE]

27/01/2005 JUDGE.